

**LOCKHEED MARTIN CORPORATION**

**PRIME SUPPLEMENTAL FLOWDOWN DOCUMENT (PSFD)**

**ADDITIONAL TERMS AND CONDITIONS FOR SUBCONTRACTS/PURCHASE ORDERS  
UNDER**

P3 CUSTOMS AND BORDER PATROL  
CONTRACT NUMBER: HSBP1008D01906

**Generated using Lockheed Martin CorpDocs 2008 Version**

23 May 2008

Version 2 (29 July 2008)

The Terms and Conditions listed below are incorporated by reference and made a part of this Contract. Unless otherwise limited in this Contract, each document applies in its entirety.

In the event of a conflict between the version or date of a clause set forth in this document and the version or date of a clause set forth in the identified CorpDocs, the version or date of the clauses set forth in this document shall take precedence.

To the extent that any clause included in this PSFD is inapplicable to the performance of this Contract, the parties shall consider such clauses to be self-deleting and shall not impose any obligations upon the SELLER.

**(Use this addendum in addition to the applicable CORP DOC (2 FOR Commercial Items, 3 for Supplies and 4 for cost type contracts etc.) AND use the applicable CORP DOC D supplement for Homeland Security)**

**DISCLOSURE OF INFORMATION (MAR 2003)**

A. Any information made available to the SELLER by BUYER shall be used only for the purpose of carrying out the provisions of this contract and shall not be divulged or made known in any manner to any persons except as may be necessary in the performance of the contract.

B. SELLER shall not use, disclose, reproduce, or otherwise divulge or transfuse to any persons any technical information or data licensed for use by the Government that bears any type of restrictive or proprietary legend except as may be necessary in the performance of the contract. Refer to the Rights in Data clause for additional information.

C. In performance of this contract SELLER assumes the responsibility for protection of the confidentiality of all Government and BUYER records and/or protected data provided for performance under the contract and shall ensure that (a) all work performed by any subcontractor is subject to the disclosure restrictions set forth above and (b) all subcontract work be performed under the supervision of the Contractor or their employees.

**GOVERNMENT CONSENT OF PUBLICATION/ENDORSEMENT (MAR 2003)**

Under no circumstances shall SELLER, or anyone acting on behalf of the SELLER, refer to the supplies, services, or equipment furnished pursuant to the provisions of this contract in any news release or commercial advertising without first obtaining explicit written consent to do so from BUYER.

SELLER agrees not to refer to awards in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed or preferred by the Federal Government or BUYER is considered by the Government or BUYER to be superior to other products or services.

**SECURITY PROCEDURES (MAY 2003)**

The following security procedures will be applicable only to the extent SELLER in performance of the Work will have access to CBP facilities, information systems, security items/products and sensitive unclassified information:

A. SELLER shall comply with the U.S. Customs & Border Protection (CBP) administrative, physical and technical security controls to ensure that the Government's security requirements are met.

B. All SELLER employees shall be required to wear identification badges when working in Government facilities.

C. No SELLER employee shall begin working under the contract until the entire background investigation (BI) is completed with approval from CBP, Security Programs Division. Exceptions to this requirement will be handled on a case-by-case basis, and access to facilities, systems, data, etc. will be limited until the individual is cleared. SELLER employee personnel hired to work within the United States or its territories and possessions that require access to CBP facilities, information systems, security items and products, and/or sensitive but unclassified information shall either be U.S. citizens or have lawful permanent resident status. The following security screening requirements apply to both U.S. citizens and lawful permanent residents who are hired as SELLER personnel. All personnel employed by SELLER or responsible to SELLER for the performance of work hereunder shall either currently possess or be able to favorably pass a background investigation. SELLER shall submit within ten (10) working days after award of this contract a list containing the full name, social security number, and date of birth of these people who claim to have successfully passed a background investigation by the CBP, or submit such information and documentation as may be required by the Government to have a BI performed for all personnel. The information must be correct and be reviewed by a Customs Official for completeness. Normally this shall consist of SF-85P, "Questionnaire for Public Trust Positions;" FD-258, "Fingerprint Chart;" and a Financial Statement. Failure of any SELLER personnel to pass a BI means that the SELLER has failed to satisfy the contract's requirement to provide cleared personnel. The continuing failure to meet the requirement to provide cleared personnel is grounds for termination of the contract, unless cleared personnel are timely provided as replacements. SELLER must provide a qualified replacement capable of passing a BI for any person who fails to successfully pass a BI. This policy also applies to any personnel hired as replacements during the term of the contract. The Contracting Officer must approve all personnel replacements. Estimated completion of the investigation is approximately ninety (90) to one-hundred twenty (120) days from the date the completed forms are received in the Security Programs Division.

D. SELLER shall notify the Contracting Officer's Technical Representative and Contracting Officer via phone, FAX, or electronic transmission, no later than one work day after any personnel changes occur. Written confirmation is required for phone notification. This includes, but is not limited to, name changes,

resignations, terminations, and reassignments (i.e., to another contract.). SELLER shall notify the OIT Information Systems Security Branch (ISSB) of any change in access requirements for its employees no later than one day after any personnel changes occur. This includes name changes, resignations, terminations, and transfers to other Contractors. SELLER shall provide the following information to OIT ISSB at TEL: (703) 921-6116 and FAX (703) 921-6570: full name, social security number, effective date, and reason for change.

E. In accordance with Customs Directive No. 51715-006, "Separation Procedures for Contractor Employees," SELLER is responsible for ensuring that all separating employees complete relevant portions of the Contractor Employee Separation Clearance, Customs Form 242. This requirement covers all SELLER employees who depart while a contract is still active (including resignation, termination, etc.) or upon final contract completion. Failure of a SELLER to properly comply with these requirements shall be documented and considered when completing Contractor Performance Reports.

F. SELLER shall ensure that its employees follow the general procedures governing physical, environmental, and information security described in the various CBP regulations pertaining thereto, good business practices, and the specifications, directives, and manuals for conducting work to generate the products as required by this contract. Personnel will be responsible for the physical security of their area and government furnished equipment (GFE) issued to them under the provisions of the contract.

G. When determined to be appropriate, SELLER employees may be required to execute a non- disclosure agreement as a condition to access of sensitive but unclassified information.

**3052.219-70 SMALL BUSINESS SUBCONTRACTING PLAN REPORTING (JUN 2006)**

SELLER shall enter the information for the Subcontracting Report for Individual Contracts (formally the Standard Form 294 (SF 294)) and the Summary Subcontract Report (formally the Standard Form 295 (SF-295)) into the Electronic Subcontracting Reporting System (eSRS) at <http://www.esrs.gov>.

**WARRANTY OF SUPPLIES**

a) Definitions. As used in this clause:

"Acceptance" means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services rendered, as partial or complete performance of the contract.

"Supplies" means the end items furnished by the SELLER and related services required under this contract. The word does not include "data."

(b) SELLER Obligations.

(1) SELLER warrants that, from a period of twelve (12) months from date of delivery, or 1000 flight hours, whichever comes first, all supplies furnished under this contract will be free from defects in material and workmanship and will conform with all requirements of this contract; provided, however, that with respect to Government-furnished property or Buyer furnished property, the SELLER'S warranty shall extend only to its proper installation, unless the SELLER performs some modification or other work on the property, in which case the SELLER'S warranty shall extend to the modification or other work.

(2) Any supplies or parts thereof corrected or furnished in replacement shall be extended by the duration of any period or periods during the life of the warranty, including any such extension, in which the supplies is unavailable for use or cannot be used because of a defect or non-conformance referred to in this clause.

(3) SELLER shall not be obligated to correct or replace supplies if the facilities, tooling, drawings, or other equipment or supplies necessary to accomplish the correction or replacement have been made unavailable to the SELLER by action of the Government. In the event that correction or replacement has been directed, the SELLER shall promptly notify BUYER, in writing, of the nonavailability.

(4) SELLER shall also prepare and furnish to the BUYER and Government data and reports applicable to any correction required (including revision and updating of all affected data called for under this contract) at no increase in the contract price.

(5) When supplies are returned to SELLER, the SELLER shall bear the transportation costs from the place of delivery specified in the contract (irrespective of the f.o.b. point or the point of acceptance) to SELLER's plant and return.

(6) All implied warranties of merchantability and "fitness for a particular purpose" are excluded from any obligation contained in this contract.

(c) Remedies available to BUYER

(1) In the event of a breach of SELLER's warranty in paragraph (b)(1) of this clause, BUYER may, at no increase in contract price

(i) Require SELLER, at the place of delivery specified in the contract (irrespective of the f.o.b. point or the point of acceptance) or at the BUYER'S plant, to repair or replace, at BUYER'S election, defective or nonconforming supplies; or

(ii) Require SELLER to furnish at the BUYERS plant, the materials or parts and installation instructions required to successfully accomplish the correction.

(2) If BUYER does not require correction or replacement of defective or nonconforming supplies or the SELLER is not obligated to correct or replace under paragraph (b)(3) of this clause, BUYER shall be entitled to an equitable reduction in the contract price.

(3) BUYER shall notify SELLER in writing of any breach of the warranty in paragraph (b) of this clause within thirty (30) days. SELLER shall submit to BUYER a written recommendation within thirty (10) days as to the corrective action required to remedy the breach. After the notice of breach, but not later than thirty (30) days after receipt of SELLER'S recommendation for corrective action, the BUYER may, in writing, direct correction or replacement as in paragraph (c)(1) of this clause, and the SELLER shall, notwithstanding any disagreement regarding the existence of a breach of warranty, comply with this direction. If it is later determined that SELLER did not breach the warranty in paragraph (b)(1) of this clause, the contract price will be equitably adjusted.

(4) If supplies are corrected or replaced, the period for notification of a breach of the SELLER'S warranty in paragraph (c)(3) of this clause shall be ten (10) days from the furnishing or return by the SELLER to BUYER of the corrected or replaced supplies or parts thereof, or, if correction or replacement is effected by the SELLER at a BUYER or Government or other activity, for thirty (30) days thereafter.

(5) The rights and remedies of BUYER provided in this clause are in addition to and do not limit any rights afforded to the BUYER by any other clause of the contract.

**52.227-15 REPRESENTATION OF LIMITED RIGHTS DATA AND RESTRICTED COMPUTER SOFTWARE (DEC 2007)**

(a) This solicitation sets forth the Government's known delivery requirements for data (as defined in the clause at 52.227-14, Rights in Data-General). Any resulting contract may also provide the Government, and thereafter the BUYER, the option to order additional data under the Additional Data Requirements clause at 52.227-16, if included in the contract. Any data delivered under the resulting contract will be subject to the Rights in Data-General clause at 52.227-14 included in this contract. Under the latter clause, a Contractor may withhold from delivery data that qualify as limited rights data or restricted computer software, and deliver form, fit, and function data instead. The latter clause also may be used with its Alternates II and/or III to obtain delivery of limited rights data or restricted computer software, marked with limited rights or restricted rights notices, as appropriate. In addition, use of Alternate V with this latter clause provides the Government the right to inspect such data at the Contractor's facility.

(b) By completing the remainder of this paragraph, SELLER represents that it has reviewed the requirements for the delivery of technical data or computer software and states [check appropriate block]--  
[ ] None of the data proposed for fulfilling the data delivery requirements qualifies as limited rights data or restricted computer software; or

[ ] Data proposed for fulfilling the data delivery requirements qualify as limited rights data or restricted computer software and are identified as follows:

(Note Applicable location in Contract)

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(c) Any identification of limited rights data or restricted computer software in SELLER'S response is not determinative of the status of the data should a contract be awarded.

**52.227-23 RIGHTS TO PROPOSAL DATA (TECHNICAL) (JUN 1987)**

It is agreed that as a condition of award of this contract, and notwithstanding the conditions of any notice appearing thereon, the Government shall have unlimited rights (as defined in the Rights in Data-General" clause contained in this contract) in and to the technical data contained in SELLER'S proposal upon which this contract is based.

**52.227-21 TECHNICAL DATA DECLARATION, REVISION, AND WITHHOLDING OF PAYMENT - MAJOR SYSTEMS (DEC 2007) (Note 2 applies).**

**52.242-2 PRODUCTION PROGRESS REPORTS (APR 1991) (Note 2 applies).**